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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

**Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Greenville and Cooper, Texas)**

MM Docket No. 00-63
RM-9837

NOTICE OF PROPOSED RULE MAKING

Adopted: March 29, 2000

Released: April 7, 2000

Comment Date: May 30, 2000

Reply Date: June 14, 2000

By the Chief, Allocations Branch

1. The Commission has before it for consideration a Petition for Rule Making filed on behalf of First Greenville Corp. and KRBE LICO, Inc. ("KRBE"), licensee of Station KIKT(FM), Greenville, Texas, requesting the reallocation of Channel 228C3 from Greenville, Texas, to Cooper, Texas, and modification of its license for Station KIKT(FM) to specify Cooper as its community of license.¹ KRBE indicated that it would file an application for Channel 228C3 at Cooper if the channel is allocated to the community.
2. KRBE filed its request pursuant to Section 1.420(i) of the Commission's Rules which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O"), 4 FCC Rcd 4870 (1989), recon. granted in part ("Change of Community MO&O"), 5 FCC Rcd 7094 (1990). In support of its proposal, KRBE contends that adoption of its proposal will result in a preferential arrangement of allocations by providing Cooper with its first local service while not depriving Greenville of its own local service as Station KGVV(AM) is licensed to Greenville. KRBE provided a technical analysis proposing a new transmitter site showing that the entire community of Cooper is well within the proposed 70 dBu contour of Station KIKT(FM). Since a change in transmitter site is proposed, KRBE indicates that 71,358 people are in the loss area and the gain area will consist of 57,306 people resulting in a net loss of 14,052 people. KRBE contends that the loss area should not be a factor here because the proposal will provide a first local service to Cooper. In

¹ KRBE LICO, Inc. became the licensee of Station KIKT pursuant to Commission approval of its assignment application on September 2, 1999, after the filing of this Petition for Rule Making (BALH-990707GE).

addition, if the Commission evaluates the existing coverage area of Station KIKT using its current facilities of 9.1 kw ERP and 100 meters HAAT, there is an actual gain in population to be served of 11,715 persons. KRBE points out that the loss area is served by at least five aural services. According to KRBE, Cooper is an incorporated community with a 1990 Census population of 2,153 people. Further, Cooper has its own local government, including a mayor, police department, fire station, post office and zip code (75432), housing authority, water treatment plant, independent school district, which includes a high school. Cooper has its own churches, a variety of businesses and health facilities and is the County Seat for Delta county government offices. KRBE contends that reallocating Channel 228C3 to Cooper will serve the public interest by providing a first local service to the community of Cooper while not depriving the community of Greenville of local service.

3. We believe that KRBE's proposal warrants consideration since the allotment of Channel 228C3 at Cooper could provide the community of Cooper with its first local FM service while not depriving Greenville of its sole local aural service. A staff engineering analysis indicates, using KRBE's proposed site, 56,885 people will gain a new service and that reallocating the channel to Cooper will result in service to 78,372 people in a 4,803 square kilometer area. The analysis also shows that as a result of Station WIKT changing from its current licensed site at Greenville, Texas, to another site for Cooper, Texas, there will be a loss in coverage to 70,516 people and that the loss area is served by five or more services. Our analysis further shows that the change of community from Greenville to Cooper will not impact on any urbanized areas. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 228C3 at Cooper.

4. Channel 228C3 can be allotted to Cooper, Texas, in compliance with the Commission's minimum distance separation requirements at KRBE's specified site.²

5. In view of the fact that the proposed allotment could provide a first local FM service to Cooper without depriving Greenville of its sole local service, we believe it would serve the public interest to solicit comments on the proposal to allot Channel 228C3 to Cooper, Texas. Therefore, we will seek comments on the proposed amendment to the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, with respect to Greenville and Cooper, Texas.

Community	Channel No.	
	Present	Proposed
Cooper, Texas	-----	228C3
Greenville, Texas	228C3	-----

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are

² The coordinates for Channel 228C3 at Cooper are 33-21-55 and 95-41-55.

incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

7. Interested parties may file comments on or before May 30, 2000, and reply comments on or before June 14, 2000, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D. C., 20554. Additionally, a copy of such comments should be served on the petitioner's counsel, as follows:

Mark N. Lipp
600 14th Street, N. W., Suite 800
Washington, D. C. 20005

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

9. For further information concerning this proceeding contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment

which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204.(b) and 0.283 of the Commission's Rules, **IT IS PROPOSED TO AMEND** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D. C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 445 Twelfth Street, SW, Washington, D. C 20554.